

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1232

Date of Decision: 26 February 2019

#### Complaint

On 24 April 2018 the customers reported a leak to the company's leakage team. The leak was repaired on 16 May 2018 and the company agreed to provide the customers with a leakage allowance. The customers dispute the amount of leakage allowance granted on the basis that it was calculated using estimated historical meter readings from before the customers moved into the property and is, therefore, inaccurate. The customers raised a complaint through CCWater and the company agreed to recalculate the allowance based on actual meter readings, but the customers have not received a further adjustment or substantive response to their complaint. The customers believe that the company has prolonged the complaint by providing poor customer service and by failing to fully respond to CCWater's pre-investigation questions. The customers state that the company has sent disconnection notices despite the balance on account being in dispute and that this has been very stressful. The customers seek an unspecified increase of the leakage allowance, an apology for the continued delays and poor customer service, and £2,500.00 in compensation for the distress suffered during the complaint process and for poor customer service.

#### Defence

The company states that the leakage allowance was granted by the wholesaler, [ ]("RST"), and confirms that it was calculated using estimated historical meter readings. Following the customers' complaint regarding the amount of leakage allowance granted, RST used up-to-date meter readings supplied by the customers to recalculate the allowance. The results confirmed that the allowance would decrease rather than increase if RST based the allowance on the new readings. Therefore, the company disputes that the leakage allowance should be increased and states that, as RST decided not to decrease the allowance following the recalculation as a gesture of goodwill, the customers have benefitted financially. The company accepts that it failed to inform the customers of RST's findings following the leakage allowance recalculation until 4th January 2019, five weeks after receiving this information from the RST. The company apologises for this failing and has applied a Guaranteed Standards Scheme ("GSS") payment of £20.00 to the customers' account, in line with the GSS guidelines set out by the industry regulator, OFWAT. The company disputes liability to pay compensation for distress and poor customer service, stating that it has worked alongside the customers throughout this case and successfully obtained a higher allowance than that to which the customers are entitled.

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The company has not made an offer of settlement.

### Findings

In my role as an adjudicator operating under the Water Redress Scheme I can only make findings related to the company's areas of responsibility, and not the wholesaler's (RST's) areas of responsibility. RST is responsible for calculating and granting leakage allowances and, therefore, although the evidence provided seems to show that the leakage allowance was not granted for the full period between the date the customers moved into the property and the date the leak was repaired, as the company was not responsible for calculating and authorising the leakage allowance, I cannot direct the company to increase the customers' leakage allowance entitlement. However, I direct the company to refer the matter back to RST and request RST to reconsider it. I find that the company failed to provide its service to the standard reasonably expected by the average customer by failing to fully investigate the customers' complaint. On that basis, I find it appropriate for the company to issue the customers with a written apology. I accept that the stress and inconvenience suffered by the customers has been exacerbated and prolonged by the company's failure to investigate the complaint to a reasonable standard and I find it appropriate for the company to compensate the customers in this regard. However, I find the amount claimed disproportionate for the level of stress and inconvenience shown in the evidence provided by the customers.

### Outcome

The company shall refer the customers' complaint back to RST and request RST to reconsider it. The company shall pay the customers £100.00 in compensation for stress and inconvenience (this can be applied as a credit against the customers' outstanding account balance) and provide a formal written apology to the customers.

The customer must reply by 26 March 2019 to accept or reject this decision.

# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1232

Date of Decision: 26 February 2019

## Party Details

Customers: [ ]

Company: [ ].

## Case Outline

### **The customers' complaint is that:**

- They are the directors of [ ], a hotel, and moved into the property on 25 February 2017.
- On 24 April 2018 they reported a leak to the company's leakage team. Subsequent investigations found that the leak was at the meter and the company agreed to provide them with a leakage allowance. The leak was repaired on 16 May 2018.
- RST initially granted an allowance of £191.51 for the billing period of 22 March 2018 to 16 May 2018 only. They disputed the allowance on the basis that the leak was present from 25 February 2017, the date they moved into the property, and they supplied the company with meter readings taken on 16 May 2018, 24 May 2018 and 12 June 2018 so that the company could calculate the average daily consumption without the leak. These meter readings showed an average daily consumption of 1.33 m<sup>3</sup>.
- They were granted an additional leakage allowance of £5,174.48 for the period from 25 February 2017 until the leak was repaired on 16 May 2018. However, this allowance is inaccurate as it was calculated using estimated historical meter readings from before they moved into the property, rather than the meter readings taken on 16 May 2018, 24 May 2018 and 12 June 2018. Furthermore, no clear explanation of how the leakage allowance was calculated has been supplied. Therefore, they believe the leakage allowance should be increased.

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- RST agreed to recalculate the leakage allowance and the company requested two further meter readings two weeks apart. As requested, they supplied the company with two meter readings, the first taken on 5 October 2018 and the second taken on 19 October 2018.
- They were unofficially told that the adjustment using the up-to-date meter readings would be lower than the leakage allowance already granted, but they have not received an official decision or been informed whether an adjustment will be made.
- They have spent excessive time and effort trying to resolve this complaint while the company has refused to accept liability, failed to answer the pre-investigation questions issued by CCWater, and prolonged the dispute by providing very poor customer service. During the complaint, the company sent disconnection notices despite the balance on account being in dispute. This was very stressful as the hotel cannot operate without water.
- They seek an unspecified increase to the leakage allowance based on the meter readings they supplied to the company, an apology for the delays and poor customer service, and £2,500.00 in compensation for the distress suffered while attempting to remedy this issue and for the poor customer service received.

**The company's response is that:**

- RST is the wholesaler for the customers' water and sewerage supply, whilst the company is the customers' retailer for both elements. As the customers' retailer, it is responsible for three things; customer service, billing and reading the customers' water meter a minimum of once a year.
- The policy on leakage allowance is owned by RST and is stated within its annual charges policy, which in this case is for the year 2018/19. RST has strict rules and criteria when it comes to granting leakage allowances and these cannot be overruled by a retailer. However, a retailer can challenge such decisions and it has done so in this case.
- It accepts that the leak occurred at the meter and that it was the responsibility of RST to repair the leak. On 25 May 2018 its Operations Team submitted a leakage allowance application to RST on behalf of the customers.
- On 4 June 2018, RST granted an allowance of 68m<sup>3</sup> of water and 61m<sup>3</sup> of sewerage for the billing period of 22 March 2018 to 16 May 2018, totalling £191.51.
- On 11 June 2018 it challenged the allowance granted on the basis that the billing period that the leak was applied to was incorrect as the water consumption was high from when the customers moved into the property on 25 February 2017. It therefore asked RST to recalculate the allowance for the period from 25 February 2017 to 16 May 2018, the date the leak was repaired.

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- On 16 July 2018 RST informed the company that the leakage allowance had been recalculated as 1902 m<sup>3</sup> (- 69m<sup>3</sup> already granted) x 1.3538 for water and 1712 m<sup>3</sup> (- 61m<sup>3</sup> already granted) x 1.6303 for sewerage for the period from 2 February 2017 to 16 May 2018, and authorised an additional payment of £5,174.48.
- The customers remained unhappy with the level of allowance and CCWater requested a further recalculation on the basis that the allowance had been calculated using estimated historical meter readings from before the customers took residence of the property. CCWater supplied new meter readings provided by the customers; the first reading taken on 16 May 2018 was 10110, the second reading taken on 24 May 2018 was 10118, and the third reading taken on 12 June 2018 was 10146.
- On 19 September 2018 it raised the complaint to RST management level and, as a consequence, RST agreed to recalculate the leakage allowance based on up-to-date meter readings. On 24 September 2018 it contacted the customers and requested two new readings taken two weeks apart.
- On 6 October 2018 the customers supplied the first meter reading taken on 5 October 2018 of 10316.29. On 22 October the customers supplied the second meter reading taken on 19 October 2018 of 10335.88. On 5 November it forwarded the meter readings to RST.
- On 26 November 2018 RST confirmed that the new meter readings reduce the leakage allowance rather than increase it and RST closed the case. On 4 January 2019 it informed the customers of the outcome of the recalculation and that the allowance would remain at 1902 for water and 1712 for sewerage for the period of 2 February 2017 to 16 May 2018.
- It accepts that the leakage allowance was based on an inaccurate average daily consumption. However, it states that since the customers moved into the property the average daily consumption is 2.40 m<sup>3</sup>, which is more than the average daily consumption of the previous occupier that was used to calculate the allowance granted. Therefore, the customers have financially benefitted by RST's inaccurate calculation of the leakage allowance.
- In view of the above, it disputes that the leakage allowance should be increased and states that RST decided not to decrease the allowance following the recalculation as a gesture of goodwill. Furthermore, when RST initially recalculated the allowance it used the start date of 2 February 2017, rather than the move-in date of 25th February 2017, giving an additional 23 days' worth of allowance to the customers.
- It accepts that it failed to inform the customers of RST's findings following the leakage allowance recalculation until 4th January 2019, five weeks after receiving this information from RST on 26 November 2018. The company apologises for this failing and has applied a Guaranteed Standards Scheme (GSS) payment of £20.00 to the customers' account, in line with the GSS

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guidelines set out by the industry regulator, OFWAT. The company states that all other communications were responded to within the guaranteed level of service.

- It states that following its challenge of the leakage allowance on 11 June 2018, RST exceeded the twenty day level of service response time by failing to respond by 6 July 2018. However, RST would only consider providing a GSS payment if a service was interrupted or a booked appointment was missed. Therefore, [RST] would not be liable to provide the customers with a GSS payment following the service failure experienced.
- The company disputes liability to pay compensation for distress and poor customer service, stating that it has worked alongside the customers throughout this case, successfully obtaining a higher leakage allowance from RST than that to which the customers were entitled, and met all service level deadlines apart from the failure for which a GSS payment has already been provided.

### How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and that as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

### How was this decision reached?

1. Having read the evidence provided by both parties I find that the company is the customers' retail provider and is responsible for billing, accounting and customer services. RST is the customers' wholesaler and, as such, is responsible for the maintenance and repair of the water

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and sewerage assets and, in the event of leaks, the calculation and authorisation of leakage allowances. Therefore, RST, not the company, was responsible for calculating the amount of leakage allowance and the company was responsible for applying the authorised leakage allowance to the customers' account.

2. In order to make a decision in this matter I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.
3. The parties agree that on 4 June 2018 RST granted an allowance of 68m<sup>3</sup> of water and 61m<sup>3</sup> of sewerage for the period of 22 March 2018 to 16 May 2018 and applied a credit to the customers' account in the amount of £191.51. On 11 June 2018 the company challenged the allowance granted on the basis that the water consumption was high from when the customers moved into the property on 25 February 2017. The company asked RST to recalculate the allowance for the period from 25 February 2017 to 16 May 2018, the date that the leak was repaired. On 16 July 2018 RST granted a revised allowance of 1902 m<sup>3</sup> (- 69m<sup>3</sup> already granted) x £1.3538 for water and 1712 m<sup>3</sup> (- 61m<sup>3</sup> already granted) x £1.6303 for sewerage for the period from 25 February 2017 to 16 May 2018, and made a further payment of £5,174.48. Therefore, the total amount of leakage allowance paid to the customers by the company is £5,365.99.
4. The customers believe that the leakage allowance is inaccurate and should be increased on the basis that it was calculated using estimated historical meter readings from before they moved into the property on 25 February 2017, rather than meter readings supplied to the company from after the leak was repaired. The email evidence supplied by CCWater demonstrates that the customers first supplied meter readings taken on 16 May 2018 (10110), 24 May 2018 (10118) and 12 June 2018 (10146). After raising this complaint with the company, the customers were asked for two more meter readings two weeks apart and subsequently supplied readings from 5 October 2018 (10316.29) and 19 October 2019 (10335.88).

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5. The company accepts that the leakage allowance already provided to the customers was based on historical meter readings and is, therefore, inaccurate. However, it believes that its liability has already been fully satisfied on the basis of RST's assertion that the amount of allowance already paid exceeds the amount payable based on the accurate meter readings supplied by the customers.
6. The evidence supplied by the company did not include a calculation of the amount of allowance payable based on the meter readings supplied by the customers. Furthermore, the evidence did not demonstrate what average daily consumption had been used to calculate the allowance already paid, or how many days it had been paid for. Therefore, I requested this evidence from the company under Rule 6.2.1.
7. The company did not hold this information and therefore requested it from RST. In response RST provided a breakdown of the allowance authorised on 4 June 2018 and the same for the recalculated allowance authorised on 16 July 2018.
8. This evidence demonstrates that the allowance calculated on 4 June was based on estimated historical readings from before the customers moved to the property. However, the data provided for the recalculated allowance authorised on 16 July 2018 demonstrates that an average daily consumption of 1.33333333 m<sup>3</sup> was used to determine the level of allowance payable. As 1.33333333 m<sup>3</sup> is the average daily consumption shown in the meter readings supplied by the customers for the 27 inclusive days between 16 May 2018 (10110) and 12 June (10146) it appears that RST did in fact use the customers' initial set of readings to recalculate the leakage allowance.
9. However, the company state that the allowance granted by RST was for the period from 2 February 2017, rather than the move-in date of 25th February 2017, to 16 May 2018, giving an additional 23 days' worth of allowance to the customers. The overview of the calculation supplied by RST indicates that this is not the case and that, in fact, the allowance was given for the period from 2 April 2017, the date the leak was estimated to have occurred, to 16 May 2018, the date the leak was repaired. However, having reviewed the historical meter readings supplied by RST, it seems likely that the leak occurred before 2 April 2017 as the average daily consumption from 18 March 2013 to 2 April 2017 was approximately 4.96 m<sup>3</sup>.

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10. As the company was not responsible for calculating and authorising the leakage allowance, it therefore follows that I cannot direct the company to increase the customers' leakage allowance entitlement. However, I direct the company to refer this matter back to RST and ask RST to reconsider it. I appreciate that this decision is likely to frustrate the customers but I have no jurisdiction to make findings with regard to the actions of RST as RST are not party to this case.
  
11. In CCWater's pre-investigation letter the company was asked to provide a breakdown of the calculation used to determine the amount of allowance payable, but the company did not comply with this request. Furthermore, it seems that the company accepted on face value RST's assertion that the customers' full leakage allowance entitlement had already been paid as no evidence has been provided to show that the company sought information from RST to fully explain the outcome of the recalculation to the customers. If the company had requested detailed information regarding how the allowance had been calculated in order to provide a substantive response to the questions asked by CCWater, I find that the customers' complaint is likely to have been resolved earlier. Although I am mindful of the fact that RST, not the company, were responsible for calculating and authorising the leakage allowance, it is the company's responsibility to act as an intermediary between the customers and RST and, having reviewed the evidence, I do not find that the company fulfilled this responsibility to the standard the customers could reasonably expect.
  
12. The customers have requested a formal apology from the company for poor customer service and, in view of the above, I find that an apology would be appropriate in the circumstances of this case. Therefore, I direct the company to issue a formal written apology to the customers for failing to provide its service to the standard the customers were reasonably entitled to expect and, specifically, for failing to fully investigate the customers' complaint and failing to provide a substantive response to the information request from CCWater.
  
13. The company accepts that it failed to inform the customers of RST's findings following the leakage allowance recalculation until 4th January 2019, five weeks after receiving this information from RST on 26 November 2018. The defence document contains an apology for this failing and the company has applied a Guaranteed Standards Scheme (GSS) payment of £20.00 to the customers' account, in line with the GSS guidelines set out by the industry regulator, OFWAT. Having considered the evidence, I find that the company has sufficiently compensated the customers for this matter and so I make no further direction in this respect.

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14. The customers claim £2,500.00 in compensation for the distress suffered while attempting to remedy the complaint and for the poor customer service received. The customers state that they have spent excessive time and effort trying to resolve this complaint while the company has refused to accept liability. The customers also complain that the company sent disconnection notices despite the balance on account being in dispute and that this was very stressful as the hotel cannot operate without water.

15. Although I have concluded that the company is not liable to increase the leakage allowance, I accept that the stress and inconvenience suffered by the customers will have been exacerbated and prolonged by the company's failure to properly investigate the complaint. I consider it fair for the company to pay the customers a measure of compensation for the stress and inconvenience caused as a result of its failing. However, I find that the customers have not provided substantive evidence to demonstrate that the level of stress and inconvenience suffered warrants the level of compensation claimed. I direct the company to pay the customers in the amount of £100.00 and I am satisfied that this amount is proportionate to the level of distress and inconvenience shown in evidence.

#### **Outcome**

The company shall refer the customers' complaint back to AWS and request AWS to reconsider it. The company shall pay the customers £100.00 in compensation for stress and inconvenience (this can be applied as a credit against the customers' outstanding account balance) and provide a formal written apology to the customers.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 26 March 2019 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.

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*KS Wilks*

Katharine Wilks

**Adjudicator**

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